



COMMISSION HEARING

TORONTO, ONTARIO – JULY 13, 2010

IN THE MATTER OF THE RACING COMMISSION ACT S.O. 2000, c.20;

**AND IN THE MATTER OF THE APPEAL AND REQUEST FOR HEARING BY
STANDARDBRED LICENSEE LASCELLES DACOSTA**

Standardbred Owner Lascelles DaCosta (“DaCosta”) appealed a decision of the Ontario Racing Commission (“ORC”) wherein a Notice of Proposed Order (“NOP”) to revoke his licence was issued May 27, 2009, as a result of a due diligence investigation which uncovered an extensive criminal record and licensing history which was not disclosed on either of DaCosta’s 2009 new applicant application or his 2010 renewal application.

The appeal was heard on July 13, 2010 by a Panel of the Ontario Racing Commission consisting of Chair Rod Seiling.

Angela Holland appeared as counsel for the Administration. DaCosta appeared on his own behalf.

Upon hearing the testimony of Detective Constable Lorra Deasy and DaCosta, upon reviewing the exhibits filed, and upon hearing the submissions of counsel for the Administration and DaCosta, the Panel denied the appeal but varied the penalty. The penalty was varied as follows:

- i. DaCosta’s licence is suspended for twelve months, the suspension is stayed for ten months and he is fined \$3,000.
- ii. His suspension of two months is to include the time of issuance of the NOP (May 27, 2010), therefore his suspension is to expire on July 26, 2010.
- iii. He will be on probation for the term of his stay (July 27, 2010 – May 27, 2011), he is to keep the peace and be of good behaviour. Failure to comply will mean the stay automatically expires.

The Panel’s Reasons for Decision is attached to this Ruling.

DATED at Toronto this 19th day of July 2010.

BY ORDER OF THE COMMISSION


John L. Blakney
Executive Director



REASONS FOR DECISION

Overview

1. Lascelles DaCosta appealed a decision of the Ontario Racing Commission (ORC) wherein a Notice of Proposed Order to revoke his licence was issued on May 27, 2009. A de novo hearing was convened on July 13, 2009 to hear the matter.

Background

2. The appellant was first granted a licence on January 15, 2009. Angela Holland, legal counsel for the ORC, submitted that on his licence application he checked off as “no” in regards to him having been convicted of an offence or ever having had a licence suspended.

3. SB Rule No. 1.02 states, “Standardbred racing shall be conducted in accordance with the rules, Commission directives, conditions of licenses granted by the Director or the Commission, track rules approved by the Director, and any other applicable laws and regulations.”

4. SB Rule No. 3.03.01 states, “An applicant for a licence shall complete a written application, pay any fee required by the rules, submit satisfactory evidence of identity, including fingerprints and photographs, and furnish evidence of financial responsibility. Every person licensed by the Commission is deemed to have agreed to the conditions set out in the application for the licence, the licence itself, the Act, the rules and regulations there under.”

5. SB Rule No. 6.20 states, “A participant shall be guilty of a violation of the rules:

- (a) for any misconduct which is injurious to racing although not specified in these rules;
- (b) for any misconduct prejudicial to the best interests of racing; or
- (c) for committing or attempting to commit any other act injurious to racing.”

6. SB Rule No. 6.27 states, “In any investigation or case, whether or not an oath is administered, if the participant knowingly withholds information or misleads the investigators or the judges, it shall constitute a violation.”

7. Detective Constable Lorra Deasy’s undisputed evidence indicated that as part of her normal due diligence check on Mr. DaCosta, she found that he had thirteen previous criminal convictions, thirty-one traffic violations and a poor credit rating that he had not disclosed on his licence application. In her opinion he was not honest in filling out the application nor was he honest when ORC Investigator Richard Pellarin interviewed him regarding his licence application.

8. Mr. DaCosta submitted that he regularly answers no to any questionnaire he completes. He has not had any criminal convictions for some five years and stated that he pays all his bills including those related to racing except those dealing with a phone that was in his vehicle that was stolen.

9. His evidence was that he has demonstrated his honesty and integrity over the past one and one-half years as an ORC licensee. He admitted that he made a mistake in not completing the application as required and that he should not be judged on his past record submitting that he is an honest person.



Issue

10. Should Mr. DaCosta's licence be revoked for failing to honestly complete his ORC licence application as required by the Rules of Standardbred Racing?

Decision

11. After carefully reviewing the testimony, the documents and the submissions, the Panel denies the appeal but varies the penalty. Mr. DaCosta's licence is suspended for twelve months, the suspension is stayed for ten months and he is fined \$3,000. His suspension of two months is to include the time of issuance of the NOP (May 27, 2010), therefore his suspension is to expire on July 26, 2010. He will be on probation for the term of his stay, he is to keep the peace and be of good behaviour. Failure to comply will mean the stay automatically expires.

Reasons for Decision

12. An ORC licence is a privilege, not a right. Horse racing's future is directly tied to the public's perception that it is honest, fair and integrity is the cornerstone on which the sport/business operates. To achieve this lofty goal, it is critical that every licensee abides by these tenets. One rotten apple cannot and should not be allowed to jeopardize the future of so many who love the sport/business and demonstrate that commitment in their dedication to the business and their love of the horse.

13. On that basis, it falls to the ORC to ensure that only those individuals who can meet the standards demanded of all licensees are granted the privilege of a licence. Honesty, integrity, and financial responsibility are some of the key thresholds which any prospective licensee must meet.

14. Mr. DaCosta failed to comply with the requirement to honestly answer all the questions on his licence application and therefore he violated SB Rules Nos. 1.02, 3.03.01, 6.20 and 6.27.

15. The ORC has a policy of rehabilitation, one which it has demonstrated on numerous occasions. Mitigating factors for Mr. DaCosta are he has not had a conviction for some five years, he is gainfully self-employed, he has paid all his bills in horse racing regularly for the past one and one-half years and he had a reasonable explanation for his poor credit rating. The Panel is prepared to accept that he is "an honest man".

16. The Panel cannot and will not accept his failure to honestly answer the questions on his licence application. That violation demands an appropriate penalty.

DATED this 19th day of July 2010.

Rod Seiling
Chair